



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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December 22, 2015

Mr. Robert Fiedler, Sr.
8716 South Utica Avenue
Evergreen Park, Indiana 60805

Re: Formal Complaint 15-FC-304; Alleged Violation of the Access to Public Records Act by the LaGrange County Regional Utility District

Dear Mr. Fiedler:

This advisory opinion is in response to your formal complaint alleging the LaGrange County Regional Utility District ("District") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The District responded via Counsel, Mr. John R. Gastineau, Esq. His 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 November 13, 2015.

BACKGROUND

Your complaint dated October 13, 2015, alleges the LaGrange County Regional Utility District violated the Access to Public Records Act¹ by improperly charging copy fees.

You note Ordinance 2015-10-15 establishes a copy fee of \$0.25 per page. The Ordinance also requires all payments are to be made in advance and in cash only. You contend this is a violation of the APRA.

On November 23, 2015 the counsel responded. Counsel acknowledges the copy fee is improper and states remedial action will be taken to overturn the ordinance. However, counsel denies that requiring cash payments in advance is forbidden by the APRA.

¹ Please be advised that although your complaint states a violation of the Open Door Law, the issue concerns the Access to Public Records Act and will be analyzed accordingly.



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ANALYSIS

The public policy of the APRA states that “(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.” See Ind. Code § 5-14-3-1. The LaGrange County Regional Utility District is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the District’s disclosable 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 are correct the charge in excess of ten (10) cents per copy is contrary to the fee schedule set by Ind. Code § 5-14-3-8(d)(1). Any fee charged to you over ten (10) cents per copy will be refunded to you.

Nothing within the APRA dictates how or when a public agency collects copy fees. In this instance, requiring fees to be paid ahead of time protects the public agency from fulfilling a request which is not paid for or claimed. Similarly, requiring all payments in cash helps ensure a public agency recovers the cost fulfilling the request. Accepting cash-only payments for copy fees is an acceptable practice.

DETERMINATION

Based on the foregoing, it is the Opinion of the Indiana Public Access Counselor the LaGrange County Regional Utility District improperly promulgated an excessive copy fee, however, has remedied the issue in the meantime. There is no violation for accepting cash-only payments for these fees.

Regards,

Luke H. Britt
Public Access Counselor



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Cc: Mr. John R. Gastineau, Esq.