



STATE OF INDIANA

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October 18, 2010

Mr. Eric D. Smith
DOC # 112675
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 10-FC-214; Alleged Violation of the Access to Public Records Act by the Wabash Valley Correctional Facility

Dear Mr. Smith:

This advisory opinion is in response to your formal complaint alleging the Wabash Valley Correctional Facility (the "Facility") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*, by denying you access to public records. A copy of the Facility's response to your complaint is enclosed.

BACKGROUND

In your complaint, you allege that the Facility denied you access to a blank Grievance Appeal form. You believe the Facility denied you access in order to "frustrate prisoner's [sic] attempts to exhaust remedies as mandated by the Prison Litigation Reform Act of 1996." You argue that because Facility staff provides the forms for free, there is no reason for the Facility to have denied you access to them.

Rich Larsen responded to your request on behalf of the Facility. Mr. Larsen states that your request should have been submitted with him in accordance with Indiana Department of Correction Policy 00-03-101, Distribution of Information, but Mr. Larsen never received a request from you. Moreover, when you requested a blank Grievance Appeal form from Facility Grievance Executive Assistant Teresa Littlejohn, Ms. Littlejohn responded to your request and informed you that she would provide you with a form if you would identify the case to which the appeal pertains.

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 Facility does not contest that it is a “public agency” under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Facility’s public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

Under the ARRA, a request for inspection or copying must identify with reasonable particularity the record being requested. I.C. § 5-14-3-3(a). Thus, it was reasonable for Ms. Littlejohn to ask you to provide additional information regarding your requested form. Ms. Littlejohn was willing to provide you with an appeal form if you would have responded to her with the applicable cause number. In my opinion, the Facility did not deny you records within the meaning of section 3 of the APRA.

I also note that an agency may require a public records request to be made in writing or on a form provided by the agency. I.C. §5-14-3-3(a). Accordingly, Mr. Larsen does not violate the APRA by requiring that you submit your request upon the Facility’s prescribed form.

CONCLUSION

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

Best regards,



Andrew J. Kossack
Public Access Counselor

Cc: Rich Larsen