



STATE OF INDIANA

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**PUBLIC ACCESS COUNSELOR
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March 16, 2015

Mr. Joseph P. Griffin
65 South 17th Ave.
Beech Grove, IN 46107

Re: Formal Complaint 15-FC-88; Alleged Violation of the Access to Public Records Act by the Ivy Tech Community College (Priority)

Dear Mr. Griffin,

This advisory opinion is in response to your formal complaint alleging the Ivy Tech Community College ("Ivy Tech") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 et. seq. The Department has responded to your complaint via J.D. Lux, Esq., Assistant General Counsel. 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 March 9, 2015. Your complaint has been given priority status.

BACKGROUND

Your complaint dated March 9, 2015 alleges the Ivy Tech Community College violated the Access to Public Records Act by denying the production records responsive to your request.

On July 2, 2014, your employment at Ivy Tech was terminated. Ivy Tech claims the termination was for just cause. On February 10, 2015, you made a public access request, requesting your personnel files as well as policies and procedures you believe are needed for an unemployment suit. You received an acknowledgement from Ivy Tech on February 10, 2015, but have still not received the records you requested.

On March 16, 2015, Ivy Tech responded via counsel. Counsel contends your request was "rather exhaustive" and required "significant time." Counsel maintains Ivy Tech is not delaying the response unnecessarily and but rather the process of locating the records is a more time-consuming process than you believe.

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. Ivy Tech Community College 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 Ivy Tech’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).

The Access to Public Records Act states the production of requested records must happen within a reasonable amount of time. What is reasonable is highly fact-sensitive. Between the time of your request and the filing of your formal complaint, approximately 18 business days had elapsed. Your records request was large, but no so large and complex the school could not have produced some of the records you seek. It is not a violation to withhold all the records until they are compiled, but best practice and good customer service would suggest they be released in a piecemeal manner as they become available.

Personnel files, policies and procedures should be a fairly unobtrusive task for a public agency to produce. Emails and reports may be more cumbersome and will often be subject to redaction. Although they may be compiled quickly, as you claim, they are subject to review (even if they were your emails when you were employed there).

Ivy Tech has indicated they will produce records to you in the coming week. It is my sincere hope they do so to your satisfaction. Please do not hesitate to contact me if this process extends much farther into the future.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

Cc: Mr. J.D. Lux, Esq.