

August 29, 2005

Mr. Bif Guenthen  
P.O. Box 2  
Bowling Green, IN 47833

*Re: Formal Complaint 05-FC-154; Alleged Violation of the Access to Public Records Act by the Indiana Family and Social Services Administration, Porter County Division of Family Resources*

Dear Mr. Guenthen:

This is in response to your formal complaint alleging that the Porter County Division of Family Resources ("Division") violated the Access to Public Records Act ("APRA") by failing to timely respond to your request and for denying your request for records. I find that the Division did not violate the Access to Public Records Act.

#### BACKGROUND

You state in your formal complaint, which you filed on July 28, 2005, that you hand-delivered a request for records to the Division on July 19, 2005. You further allege that you received by mail the Division's response on July 22, 2005, which failed by your account to meet the 24-hour deadline for response. You also complain that the Division denied you the records you sought. Although you did not specify in your complaint what records you were seeking, the Division supplied me a copy of your request in its response to your complaint. You sought all the information specifically required to be disclosed by a public agency from an employee's personnel file. Your request did not designate what group of employees you sought this information about.

The Division's response to your complaint stated that it had received your request at its office on Tuesday, July 19<sup>th</sup>, at approximately 3:15 p.m. The Division's written response was placed in the mail at 2:30 p.m. on Wednesday, July 20, 2005. The response acknowledged receipt of your request and cited IC 5-14-3-4(b)(8) for the requirement that you specify by employee name your request for information from a personnel file. The Division further

responded to your complaint by reiterating that a request for information from a personnel file of a public employee must particularize the request by employee name.

### ANALYSIS

Any person may inspect and copy the public records of any public agency during the agency's regular business hours, except as provided in section 4 of the APRA. IC 5-14-3-3(a). A public agency that receives a request for a record in person must respond to the request within 24 hours of its receipt, or the request is deemed denied. IC 5-14-3-9(a). An agency that receives a request in writing must respond to it in writing. IC 5-14-3-9(c). This office has stated that so long as the public agency mails its response within 24 hours of receipt, it has responded within the 24-hour timeframe. If the law required that the requester *receive* a written response within 24 hours, the agency would often not be able to meet the deadline when it mails the response, because the post office takes at least one day to deliver mail. I find that the Division timely responded to your request.

Certain information from a public employee's personnel file is required to be disclosed, in accordance with IC 5-14-3-4(b)(8)(A)-(C). However, the agency may require that a request for personnel information be particularized by employee name. IC 5-14-3-4(b)(8). This is precisely what the Division requested that you do in its July 20<sup>th</sup> response. The Division did not deny you a record when it responded as it did. I note also that your request for records was not reasonably particular, since it did not identify what group of employees you were seeking information on. Thus, even if section 4(b)(8) did not require the specificity by employee name, your request would have failed to meet the requirement that it be stated with reasonable particularity. *See* IC 5-14-3-3(a).

### CONCLUSION

For the foregoing reasons, I find that the Porter County Division of Family Resources did not violate the Access to Public Records Act.

Sincerely,

Karen Davis  
Public Access Counselor

cc: John Rutkowski