



STATE OF INDIANA
MITCHELL E. DANIELS, JR., Governor

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July 25, 2012

Mr. Mark Buckley
8225 N. State Road 157
Worthington, Indiana 47471

Re: Formal Complaint 12-FC-185; Alleged Violation of the Access to Public Records Act by the White River Valley School Corporation

Dear Mr. Buckley:

This advisory opinion is in response to your formal complaint alleging the White River Valley School Corporation ("School") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Susan Traynor Chastain, Attorney, responded on behalf of the School. Her response is enclosed for your reference.

BACKGROUND

In your formal complaint, you allege that on July 2, 2012, you hand-delivered a written request for records to the School. As of July 5, 2012, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege that you have yet to receive a response.

In response to your formal complaint, Ms. Chastain advised that the School did fail to respond in writing to your written public records request within twenty-four hours. The School noted Superintendent Wall recently sustained significant injuries in an accident and was unable to be present on the date you allegedly submitted your request. Regardless, the School on July 9, 2012 responded in writing to your hand-delivered request and acknowledged its receipt.

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* I.C. § 5-14-3-1. The School is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the School's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within twenty-four hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, you hand-delivered a written request for records to the School on July 2, 2012. The School was required to respond, in writing, within twenty-four hours of receipt of your hand-delivered written request and acted contrary to section 9 of the APRA when it failed to do so. *See Opinions of the Public Access Counselor 05-FC-176; 11-FC-84; 11-FC-308; 12-FC-63; 12-FC-162*. As the School has now responded to your written request in writing on July 9, 2012, I trust that this is in satisfaction of your complaint. It should be noted that the School was not required to provide all records within twenty-four hours of your request; pursuant to I.C. § 5-14-3-3(b), the School is required to provide all records that are responsive to a request in a reasonable period of time.

CONCLUSION

For the foregoing reasons, it is my opinion the School violated section 9 of the APRA by failing to respond in writing to your hand-delivered written request within twenty four hours.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is fluid and cursive, with a large initial "J" and a distinct "H" and "oage" following.

Joseph B. Hoage
Public Access Counselor

cc: Susan Traynor Chastain