



STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

June 28, 2016

Mr. Robert Bogue
7846 North 1200th Street
Paris, Illinois 61944

Re: Formal Complaint 16-FC-123; Alleged Violation of the Access to Public Records Act by the Vigo County Human Resources Department

Dear Mr. Bogue:

This advisory opinion is in response to your formal complaint alleging the Vigo County Human Resources Department (“Department”) violated the Access to Public Records Act (“APRA”), Indiana Code § 5-14-3-1 et. seq. The Department has responded via Mr. Michael J. Wright, Esq. His response is enclosed for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on May 31, 2016.

BACKGROUND

Your complaint dated May 31, 2016 alleges the Vigo County Human Resources Department violated the Access to Public Records Act by failing to respond to your records request.

On May 18, 2016, you requested via email statements of economic interest or conflict of interest disclosures related to a named individual. As of the filing of your complaint you had not received a response.

On June 17, 2016 the Department responded. The Department notes conflict of interest disclosures would have been filed with the Vigo County Auditor and not the Department. Neither the Department nor Auditor have records responsive to your request. The Department does not state why your records request was not denied in writing.

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 Indiana Code § 5-14-3-1*. The Vigo County

Emergency Management Agency is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the Agency's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

A request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See Indiana Code § 5-14-3-9(b)*. A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

A public agency, such as the Department, is required to respond to a request within seven (7) days. The Department has not stated why it failed to respond to your request. It alleges you never appeared at the Auditor's Office to request records, however, you have provided email documentation wherein the Auditor was clearly copied. It has stated that it does not have the records you requested, but has provided payroll records which it hopes will satisfy your request.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the Vigo County Human Resources Department violated the Access to Public Records Act by failing to respond to your request within seven (7) days, however, has fulfilled your request through the formal complaint process.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Mr. Michael J. Wright, Esq.