
OPINION OF THE PUBLIC ACCESS COUNSELOR

SUSAN J. CORD,
Complainant,

v.

SWITZERLAND COUNTY SCHOOL CORP.,
Respondent.

Formal Complaint No.
17-FC-208

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to the formal complaint alleging the Switzerland County School Corp. (“School”) violated the Access to Public Records Act¹ (“APRA”). The School has responded via attorney Alexander P. Pinegar. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on August 28, 2017.

¹ Ind. Code §§ 5-14-3-1 to -10

BACKGROUND

Susan J. Cord (“Complainant”) filed a formal complaint alleging that the School violated the Access to Public Records Act by improperly denying her access to records.

On June 9, 2017, Cord made a written request to the School seeking the following:

[A]ll documents on file in the Switzerland County School Corporation Central Office or elsewhere that relate to the ‘Sale of Property to Charter Schools’ in relation to the old Vevay Grade/High School Building

Cord contends this documentation should have been created by policy and statute – specifically verification of communication between the Indiana Department of Education (“IDOE”) and the School regarding the unused building list, any waivers and related documentation. The School has not, according to the Complainant, satisfied the request.

On July 25, 2017, the School’s Superintendent provided Cord with emails that he exchanged with IDOE— dated June 12 and June 19— regarding Indiana Code § 20-26-7-1. Although the emails indicate some initial confusion on the IDOE’s interpretation of the statute, the agency ultimately confirmed its interpretation that the statute does not require the School to report the old Vevay high school building on the unused building list it must provide annually to IDOE.

The School argues that it did not violate APRA because it has provided the Complainant with all the records that exist relevant to her request, which consists only of the emails

exchanged between the Superintendent and the IDOE. Furthermore, the School argues that it is not required under APRA to create a document to respond to Cord's records request. Beyond that, the School argues that the other issues raised in the complaint are outside the purview of this Office.

ANALYSIS

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." Ind. Code § 5-14-3-1. The Switzerland County School Corporation is a public agency for the purposes of the APRA. Ind. Code § 5-14-3-2(n). Therefore, any person has the right to inspect and copy the School's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a). A public agency is required to make a response to a written request that has been mailed within seven (7) days after it is received. Ind. Code § 5-14-3-9(c).

As a preliminary matter, this Office cannot mandate the existence of, nor the subsequent release of public records unless the Access to Public Records Act specifically calls for their creation. Furthermore, this Office has no regulatory authority to enforce or even interpret school policy or procedures in the "Unused Building Statute." The IDOE is the more appropriate agency to field a grievance as to the statute not being followed, but it does not appear they field those

complaints either. How an agency interprets its own statutes is well beyond the scope of this Office if no public access law is implicated, which it is not.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Switzerland County School Corporation did not violate the Access to Public Records Act if no records exist to satisfy the request.

A handwritten signature in black ink, appearing to read 'LH Britt', with a large, sweeping flourish underneath.

Luke H. Britt
Public Access Counselor