
OPINION OF THE PUBLIC ACCESS COUNSELOR

AMY MORRIS,
Complainant,

v.

PAOLI VOLUNTEER FIRE DEPARTMENT
Respondent.

Formal Complaint No.
24-FC-86

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to the formal complaint alleging the Paoli Volunteer Fire Department violated the Access to Public Records Act.¹ The agency did not respond despite an invitation to do so. 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 November 18, 2024.

¹ Ind. Code § 5-14-3-1-10.

BACKGROUND

This case involves a dispute over access to financial information of a volunteer fire department.

On September 18, 2024, Complainant Amy Morris submitted a public records request to the Paoli Volunteer Fire Department (VFD). The attorney for the VFD asked Morris to clarify her request with reasonable particularity, which she did on September 25.

The VFD set a self-imposed deadline of 30 days to review, which would have expired on November 1, 2024. After no response, she filed her complaint on November 18.

This office sought a response from the VFD chief on November 25, 2024 but did not receive a response.

ANALYSIS

1. The Access to Public Records Act

The Access to Public Records Act (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 Paoli Volunteer Fire Department is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q)². As a result, unless an exception applies, any person has the right to inspect and copy the VFD’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

1.1 Cooperation from public agencies

Indiana Code section 5-14-5-5 expressly states that a “public agency shall cooperate with the [Public Access] Counselor in any investigation or proceeding under this chapter.”

Indeed, the chapter referenced in that statute is the one that governs the formal complaint procedure administered by this Office. In other words, public agencies must work

² See also *Ayres v. Indian Heights Volunteer Fire Department*, 493 N.E.2d 1229 (Ind. 1986)

with this Office in any formal complaint investigation or proceeding.

Here, the VFD did not file an answer to the formal complaint or resolve the dispute despite an invitation to do so. The VFD should be mindful going forward that cooperating with this Office necessarily requires—at minimum—a response to the allegations raised in a formal complaint. Otherwise, this Office will presume that the agency does not dispute a complainant's allegations. This Office will not form and present arguments on behalf of an agency that does not file an answer to a complaint

CONCLUSION

Based on the foregoing, it is the opinion of this office that the records sought should have been provided to the Complainant. To the extent they exist, I encourage the VFD to provide them consistent with this opinion.



Luke H. Britt
Public Access Counselor

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