



STATE OF INDIANA

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February 18, 2009

Diana Vice
4398 West CR 700 North
Mulberry, Indiana 46058

Re: Formal Complaint 09-FC-26; Alleged Violation of the Access to Public Records Act by the Wilson Education Center

Dear Ms. Vice:

This advisory opinion is in response to your formal complaint alleging the Wilson Education Center ("Center") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. A copy of the Center's response to the complaint is enclosed. In my opinion the Center has not violated the APRA.

BACKGROUND

You filed the present complaint on January 21, 2009. This complaint follows my opinion in response to Formal Complaint 09-FC-7, which you filed against the Center in December 2008. I issued *Opinion of the Public Access Counselor 09-FC-7* on January 6, 2009 in response to that complaint. In that opinion, I indicated my belief that the Center had complied with your request for copies of attorney invoices. You now allege the records provided to you are not the "official public records" you requested. You submitted a new request to the Center on January 8, seeking copies of the attorney invoices. You allege the Center has denied you access to those records.

The Center responded to the complaint by letter dated January 26 from attorney Jeffery Qualkinbush. The Center contends it provided you with redacted copies of the invoices on December 30, 2008. Following my *Opinion 09-FC-7*, the Center also provided you with redacted copies of contracts which were at issue in that matter.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Center is a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the Center

during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A “public record” means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. § 5-14-3-2(n).

As I have previously indicated, certain information contained on the invoices may indeed be nondisclosable at the discretion of the agency. Some information contained in the invoices may fall under the attorney work product exception to disclosure found in I.C. § 5-14-3-4(b)(2)(A) or the exception for attorney-client confidential communications found at I.C. § 34-36-3-2 (and therefore nondisclosable pursuant to I.C. § 5-14-3-4(a)(1)).

The Center indicates it has provided you with redacted copies of the requested invoices. You indicate you suspect the records you received are not the “official public records.” The APRA does not contemplate this term or differentiate official from unofficial records. The Center contends it has provided you with redacted copies of the requested records, and I see no evidence that the Center has withheld any of those requested invoices, except for the portions which may be withheld pursuant to the APRA. As such, I cannot find a violation of the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion the Center not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Phil Partenheimer, Wilson Education Center
Jeffery Qualkinbush, Barnes & Thornburg LLP