



# STATE OF INDIANA

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May 4, 2009

John Hash  
1644 Midland Drive  
Franklin, Indiana 46131

*Re: Formal Complaint 09-FC-90; Alleged Violation of the Access to Public Records Act by the Indiana State Board of Accounts*

Dear Mr. Hash:

This advisory opinion is in response to your formal complaint alleging the Indiana State Board of Accounts ("Board") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by taking an unreasonable amount of time to provide you access to records. A copy of the Board's response to the complaint is enclosed for your reference. It is my opinion the Board has not taken an unreasonable amount of time to retrieve, review and provide copies of records from the past nine years.

## BACKGROUND

You allege that on January 26, 2009 you submitted a request for access to records to the Board. Specifically, you asked for all correspondence from the Board concerning you, your wife, and/or your children. You asked for correspondence dating back to the year 2000. You include a copy of the Board's response to your request. The response, dated January 29, indicated the Board was in the process of determining which records it maintains that are responsive to your request. You submitted another request, as I understand it for the same or similar records, on March 9. The Board responded by letter dated March 9, indicating it was still searching for records responsive to the January 26 request as well. You filed the present complaint on April 3, alleging you had not yet received the records and contending that sixty days was ample time to provide the records.

The Board responded to the complaint by electronic mail message dated May 4 from General Counsel Paul Lottes. The Board contends the office has received both the January 26 and March 9 requests from you and responded to each as required by the APRA. The Board indicates that in an effort to locate any records which could be responsive to your request for access to records dating back to 2000, the Board has four employees reviewing records which may be responsive to your request. The Board indicates it is in the process of reviewing and assembling the records. The Board contends that because of the volume of records involved, it has not had a chance to complete the

review yet. The Board indicates that after the review is completed, the Board will need to determine whether any responsive records are excepted from disclosure pursuant to the APRA.

## 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 Board is clearly 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 Board 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 request for records may be oral or written. I.C. §§ 5-14-3-3(a), 5-14-3-9(c). If the request is delivered by mail and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). If the request is delivered in person and the agency does not respond within twenty-four hours of receipt, the request is deemed denied. I.C. § 5-14-3-9(a).

A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency. A public agency is required to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. § 5-14-3-7(a). However, section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. I.C. § 5-14-3-7(c). Former public access counselors and I have stated that records must be produced within a reasonable period of time, based on the facts and circumstances. Consideration of the nature of the requests (whether they are broad or narrow), how old the records are, and whether the records must be reviewed and edited to delete nondisclosable material are necessary to determine whether the agency has produced records within a reasonable timeframe.

Here, the Board responded to both requests within the timeframes established by I.C. § 5-14-3-9. Since receiving the request, the Board has had four employees working to review correspondence to determine which records it maintains that are responsive to the request. Your request for all correspondence regarding you or your family is a relatively broad request, covering records for the past nine years. The number of records the Board must review in an effort to compile the records you seek is likely quite large. Based on these factors, it is my opinion the Board has not taken an unreasonable amount of time to locate, review, and provide copies of the requested records. So long as the Board continues to work to provide you copies of any responsive and disclosable records, it is my opinion the Board has not violated the APRA.

CONCLUSION

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

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Paul Lottes, Indiana State Board of Accounts