



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR  
HEATHER NEAL

Indiana Government Center South  
402 West Washington Street, Room W460  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
www.IN.gov/pac

September 15, 2008

Frank Rizzo  
2845 45<sup>th</sup> Street  
Highland, Indiana 46322

*Re: Informal Inquiry 08-INF-37 regarding Hanover Community School Corporation*

Dear Mr. Rizzo:

This opinion is in response to your informal inquiry dated September 9, 2008. You write to inquire about records you have requested from the Hanover Community School Corporation ("Corporation") pursuant to the Access to Public Records Act ("APRA") (Ind. Code 5-14-3). You allege that you requested records from the Corporation by letter you hand delivered on September 2. You further allege the Corporation responded to the request by letter dated September 8, and you contend this is an untimely response. I have enclosed a copy of the Corporation's response for your reference. Pursuant to I.C. § 5-14-4-10(5), I issue the following opinion in response to your inquiry.

## BACKGROUND

You allege you submitted via hand delivery to the Corporation on September 2 a request for access to records maintained by the Corporation. You allege the Corporation responded on September 8, indicating the response was made within seven days in accordance with the APRA. You contend the response should have been made within twenty-four hours since you submitted the request via hand delivery. You request that I "instruct the School Corporation accordingly."

The Corporation responded to your informal inquiry by letter dated September 12 from attorney Barbra Stooksbury. The Corporation contends the failure to respond within twenty-four hours was based on a communication error; the request was forwarded to counsel, who did not realize the request was made in person. The Corporation contends that on September 8, prior to your informal inquiry filing, the Corporation responded to the request and indicated its intention to honor your request. Further, the Corporation sent you correspondence on September 10 indicating the records are available for you to retrieve from the office. The Corporation contends no remedy exists for you.

## 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 Corporation 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 Corporation 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 or facsimile 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 made by the requester physically appearing in the office of the agency and twenty-four hours have elapsed after any employee of the agency refuses inspection, a denial has occurred. I.C. § 5-14-3-9(a).

Here, you appeared at the Corporation's office on September 2 and delivered your request for access to records. Since the request was made on September 2 by your appearance in person at the office and the agency did not respond until September 8, it is my opinion the response was untimely under the APRA. It is important to note, though, that the Corporation did respond six days after receipt of the request. Further, the Corporation indicated to you on September 10, eight days after the request, that the records are available for you. While the Corporation's response to the request was untimely, the Corporation did not otherwise deny you access to records or violate the APRA.

Finally, you ask that I "instruct the School Corporation accordingly." Please note that Indiana law provides that the public access counselor shall issue advisory and informal opinions (See I.C. § 5-14-4-10), but the law does not afford the counselor any authority to compel action, enforce the public access laws, or otherwise instruct an agency as to its duties under the statutes.

Please do not hesitate to contact our office if we can be of further assistance.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Barbra Stooksbury, Bose McKinney & Evans LLP  
William Gall, Hanover Community School Corporation