



STATE OF INDIANA

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April 12, 2012

Philip Gregory Yeary
DOC#: 169399
1946 W. U.S. 40
Greencastle, Indiana 46135

Re: Informal Inquiry 12-INF-18; Denial of records

Dear Mr. Yeary:

This is in response to your informal inquiry regarding a denial of records pursuant to the Access to Public Records Act ("APRA"). Pursuant to Ind. Code § 5-14-3-9(e), I issue the following informal opinion in response to your inquiry. My opinion is based on applicable provisions of the APRA, I.C. § 5-14-3-1 *et seq.*

BACKGROUND

You have submitted the following inquiry regarding a public agency's denial under section 9 of the APRA:

"After requesting the public records by mail, if there is no response whatsoever after seven (7) days from the receipt of the mailed request, is that an implied denial or actual denial of access, which would constitute a violation of the APRA? Or does the denial actually have to be in writing?"

ANALYSIS

The public policy of the 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." See I.C. § 5-14-3-1. Accordingly, any person has the right to inspect and copy a public agency's records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. See I.C. § 5-14-3-3(a).

A request for records may be oral or written. See 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 (7) days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Consequently, a denial of access to public records occurs when the public agency either affirmatively denies you access or fails to respond to the public records request in the timeframe mandated by the APRA. In the case of a request made in writing, the agency is required to respond in writing within seven (7) days of receipt. If the agency fails to respond within seven (7) days of receipt, the request for records is denied.

If I can be of additional assistance, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Joseph B. Hoage
Public Access Counselor