



STATE OF INDIANA

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April 6, 2023

David W. Waters
8241 Holmard Place
Indianapolis, IN 46259

VIA EMAIL: david.w.waters@sbcglobal.net

RE: 23-INF-1; Response to Request for Marion County Walk Lists

Dear Mr. Waters,

This informal opinion considers the manner in which the Marion County Board of Voter Registration responded to your request for walk lists.

BACKGROUND

On or about March 11, 2022, as a candidate for state representative, you submitted a written request to the Marion County Board of Voters Registration for the voter registration list. While the Board acknowledged your request on March 21, 2022, you never received a follow-up.

You filed a formal complaint with this office on December 23, 2022. Nonetheless, you were advised that your complaint was beyond the statute of limitations for filing a complaint pursuant to Indiana code section 5-14-5-7. Even still, you had requested an informal opinion on the matter.

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 Marion County Board of Voters Registration is a public agency for purposes of APRA; and therefore, subject to the law’s requirements. See Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the Board’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

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



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1.1 Timeliness

A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a).

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 Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received along with information regarding how or when the agency intends to comply.

Here, the acknowledgement was provided to you approximately ten days following your in-person request, which would constitute a denial as it was nine days past the statutory deadline. It is unclear whether Board personnel originally acknowledged your in-person request in real-time when you submitted it. If there was a live interaction with a records clerk or an employee, the statute is satisfied. If not, this would be a violation.

After the acknowledgement deadline, the Board would have had a reasonable time to respond pursuant to Indiana code section 5-14-3-3(b). In any event, you allege you never received a denial nor materials responsive to your request. Were this a formal opinion, the Board would have been found in non-compliance with the statute.

1.2 Voter registration lists

As for the substance of your request, the access law concerning a county's voter registration roll is found at Indiana code section 3-7-27-6(c). In short, this statute defers to a county to decide whether it wants to permit or disallow the disclosure of the full list so long as the local policy is non-discriminatory in nature.

Marion County¹ has such a policy that states:

VR may provide voting history in response to a separate written request for information for an individual voter made with reasonable particularity pursuant to IC 5-14-3-3(a)(1) to permit VR to identify the individual voter in question. If a request does not provide reasonable particularity to identify an individual voter, VR may return the request and ask for additional

¹ VR is the Marion County Board of Voters Registration



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information to be provided. A separate written request must be filed for each individual voter requested.

Therefore, Marion County is not a county that provides access to the entirety of its list and must be particularized by name. This is consistent with Indiana code section 3-7-27-6.

What is more, however, the law does provide standing for the chair or major political parties to receive a copy of the entire list. See Ind. Code § 3-7-28 et.al. Whether the party distributes that to individual candidates appears to be at the discretion of the party. The public access counselor does not have jurisdiction to address that relationship.

Please do not hesitate to contact me with any questions.

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor