

January 23, 2008

Kevin McDowell  
General Counsel  
Indiana Department of Education  
Room 229 State House  
Indianapolis, Indiana 46204

*Re: Your informal inquiry regarding a list of public employees*

Dear Mr. McDowell:

This is in response to your informal inquiry dated October 29, 2007. I apologize for the delay in the response. Upon taking office July 1, 2007, I found a backlog of informal inquiries. I am currently endeavoring to address the backlog and issue opinions in response to the inquiries, pursuant to I.C. §5-14-4-10(5).

#### BACKGROUND

Your made your inquiry on behalf of the Indiana Department of Education ("Department"), and it involves a question of interpretation of the Access to Public Records Act ("APRA")(Ind. Code 5-14-3). You inquire whether a list of teachers and administrators licensed by the Department but not employed by the Department constitutes a "list of employees of a public agency," which may not be disclosed to commercial entities for commercial purposes, pursuant to I.C. §5-14-3-3(f).

#### 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. Any person has the right to inspect and copy the public records of a public agency 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 agency is not required to create or provide copies of lists of names and addresses unless the agency is required to publish such lists and disseminate them to the public

under a statute. However, if an agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. I.C. §5-14-3-3(f). The lists of names and addresses of employees of a public agency may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes. Id.

After having reviewed the information contained in the internet link you provided, [http://mustang.doe.state.in.us/TEACH/teach\\_inq.cfm](http://mustang.doe.state.in.us/TEACH/teach_inq.cfm), I hesitate to label this as a list of the names and addresses of employees of a public agency because I did not find the addresses of the teachers and administrators. I did find the business address of the school associated with each teacher, but I did not see a list containing the names and addresses of employees of a public agency. If the Department does not maintain another list which contains the names and addresses of teachers and administrators, the Department is not required to create such a list to respond to a request. I.C. §5-14-3-3(f).

Assuming the Department might maintain a list of the names and addresses of teachers and administrators, the issue then is whether such a list is a list of employees of a public agency, which would be nondisclosable to commercial entities for commercial purposes. I.C. §5-14-3-3(f). You indicate that the teachers and administrators are public employees but are not employees of the Department. It is my opinion this provision would prevent the Department from disclosing any list of names and addresses of any employees of any public agency to commercial entities for commercial purposes.

Since the term “employees of a public agency” is not defined, we turn to the plain, ordinary, and usual meaning. “When interpreting a statute the words and phrases in a statute are to be given their plain, ordinary, and usual meaning unless a contrary purpose is clearly shown by the statute itself.” *Journal Gazette v. Board of Trustees of Purdue University*, 698 N.E.2d 826, 828 (Ind. App. 1998). “Employee” is “one who works for another in return for a salary, wages, or other consideration.” *New Illustrated Webster’s Dictionary of the English Language*, Pamco Publishing Co., Inc., 1992, at 318. “Public agency” is defined in the APRA and includes any school corporation. I.C. §5-14-3-2(1)(2)(A).

Statutory provisions cannot be read standing alone; instead, they must be construed in light of the entire act of which they are a part. *Deaton v. City of Greenwood*, 582 N.E.2d 882 (Ind. App. 1991). The General Assembly did not restrict I.C. §5-14-3-3(f) to lists of employees of the agency to whom the request was made. Instead, it restricted disclosure of “[a]ny list of employees of a public agency.” I.C. §5-14-3-3(f). As such, it is my opinion a list of the names and addresses of teachers and administrators may not be disclosed by the Department to commercial entities for commercial purposes.

Best regards,



Heather Willis Neal  
Public Access Counselor