



STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

November 24, 2014

Ms. Sandi Butler
178 Fall Creek Parkway
Pendleton, IN 46064

Re: Formal Complaint 14-FC-256; Alleged Violation of the Access to Public Records Act by the South Madison Community School Corporation

Dear Ms. Butler,

This advisory opinion is in response to your formal complaint alleging the South Madison School Corporation ("School"), violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The School has responded to your request via Mr. Jack G. Hittle, Esq. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor October 29, 2014.

BACKGROUND

Your complaint dated October 24, 2014, alleges the South Madison School Corporation violated the Access to Public Records Act (Ind. Code § 5-14-3) by failing to acknowledge your request in a timely manner.

On or about August 11, 2014, you submitted a public records request to the School seeking financial information regarding a school building demolition. On August 18, 2014, the School, through Mr. Hittle, acknowledged your request and invited you to re-word your request with more specificity. The School also did not consider your request to be an official request for public records.

On October 8, 2014, you sent a second request to the School which was more narrowly tailored. On or around October 15, 2014 you received a letter from the School superintendent acknowledging your request and advising you they will compile the information within a reasonable time.

ANALYSIS

The public policy of the APRA states that “a (p)roviding person 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 Ind. Code § 5-14-3-1. The South Madison School Corporation is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy School’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14-3-3(a).

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 the request has been received and information regarding how or when the agency intends to comply.

I have stated in prior opinions that a public records request should be conspicuously marked as such; however, a public entity should be on notice that anything which reasonably *resembles* a public records request should be treated as one. Even though the School did not consider your August 7, 2014 request a public records request, it handled the request according to the APRA, save for a potentially missed acknowledgement deadline.¹

Moreover, I do not take exception to the School’s invitation for clarification of your request. According to Ind. Code § 5-14-3-3, an individual must state her request with reasonable particularity. While that term is elusive and subject to interpretation, a review of your request seeks information which may or may not be contained a particular document; however, you do not attempt to seek a particular document. The School’s interpretation you requested an itemized summary of the information in your request is reasonable.

Your October 8, 2014 request appears to be in sufficient order for the School to make a determination as to what documents you are requesting. Your renewed request is reasonably particular. The School would then have seven (7) days to acknowledge your request – which it did – and a reasonable timeframe to gather and produce them. I have not been advised whether the School has released requested documents to you as of the date of this Opinion; however, it is my sincere hope they have done so and your request has been satisfied.

¹ Your request was dated August 7, 2014, however, it is unclear when the School actually received the letter. The receiving of the letter is what triggers the seven-day deadline of Ind. Code § 5-14-3-9. Given that, at most, the deadline was missed by a day or two, the acknowledgement was not a significant impediment to your access.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the South Madison School Corporation has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long horizontal stroke extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Mr. Jack G. Hittle, Esq.