



STATE OF INDIANA

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August 8, 2008

Rodger Mitchell
6501 Massachusetts Avenue
Indianapolis, Indiana 46226

Re: Formal Complaint 08-FC-174; Alleged Violation of the Access to Public Records Act by the Metropolitan School District of Warren Township

Dear Mr. Mitchell:

This advisory opinion is in response to your formal complaint alleging the Metropolitan School District of Warren Township ("District") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. The District's response to the complaint is enclosed for your reference. It is my opinion the District has not violated the APRA.

BACKGROUND

You allege that you have been denied access to records you requested from the District. Specifically, you requested copies of certified payroll records, and the District denied access on the basis of the trade secrets exception. You allege the payroll records contain no trade secrets. You filed this complaint on July 15, 2008.

The District responded to the complaint by letter dated August 5 from David Geise of the District. The District asserts the trade secrets exception and the confidential financial information exception found in the APRA. The District includes a copy of an informal opinion I issued on the matter on January 4, 2008.

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 District is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the District 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).

The APRA provides that an agency may not disclose certain records, including records containing trade secrets and confidential financial information obtained, upon request, from a person. I.C. § 5-14-3-4(a)(4) and (5).

The issue presented here is identical to the question presented to this office by letter dated October 30, 2006. In working to clear the backlog of informal inquiries I found upon my appointment to this position July 1, 2007, I responded to that inquiry in an informal opinion dated January 4, 2008. In that opinion, I indicated my belief that an agency could bear the burden of proof to sustain the denial of access to certified payroll records based on the two exceptions to disclosure asserted. Rather than reiterate my opinion in that matter, I am enclosing a copy of the opinion for your reference. My conclusion is the same today.

CONCLUSION

For the foregoing reasons, it is my opinion the Metropolitan School District of Warren Township has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: David Geise, Metropolitan School District of Warren Township