



STATE OF INDIANA

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October 6, 2008

Michael Jack Stephens
128 Pinto Way
Bloomington, Georgia 31302

Re: Formal Complaint 08-FC-210; Alleged Violation of the Access to Public Records Act by the Indiana Department of Child Services

Dear Mr. Stephens:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Child Services (“Department”) violated the Access to Public Records Act (“APRA”) (Ind. Code 5-14-3) by denying you access to records. A copy of the Department’s response to the complaint is enclosed. In my opinion the Department has not violated the APRA.

BACKGROUND

You filed the present complaint on September 15, 2008, alleging the Department denied you access to records. You allege that you submitted on August 20 a request for access to records. Specifically, you indicated you “would like to know and a copy of any and all administrative records or Acts that states your State of Indiana, [sic] cannot comply with Title 42 U.S.C. § 669b of the United States Code,” “would like to know and would like a copy of any an all administrative records or Acts that states your State of Indiana, [sic] can steal children from parents without 1) proving [sic] them (parents) unfit,” and “would like to know and copy of any and all documents that clearly show that the state of Indiana is in full compliance . . .” You filed this complaint alleging the Department had not responded to your request.

The Department responded to the complaint by sending to my office a copy of a September 18 letter addressed to you from Deputy General Counsel John Wood. The Department contends that your August 20 letter was not a request for access to records but was instead a part of your political advocacy for changes in existing State and Federal laws concerning responsibility for enforcement of child custody or visitation orders entered by courts in paternity, dissolution, or other family law cases. The Department contends it maintains no records or documents responsive to your requests as presented in the August 20 letter.

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 Department is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the Department 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 request for inspection and copying must identify with reasonable particularity the record being requested. I.C. § 5-14-3-3(a).

Here, you have not requested access to specific records maintained by the Department. Instead, you have requested information relating to statutory authority allowing or requiring the State of Indiana to perform certain functions. In my opinion, this is not a request for access to records but instead, as the Department suggests, a piece of political advocacy related to your opinions about the laws regarding these matters. As such, the Department was not required under the APRA to respond to the letter within any prescribed timeframe.

CONCLUSION

For the foregoing reasons, it is my opinion the Department has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: John Wood, Deputy General Counsel, Department of Child Services