



STATE OF INDIANA

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January 12, 2010

Mr. Thomas A. Pappas, Jr.
5918 Newport Ave.
Portage, IN 46368

*Re: Formal Complaint 10-FC-6; Alleged Violation of the Access to
Public Records Act by the Portage Township Schools*

Dear Mr. Pappas:

This is in response to your formal complaint alleging the Portage Township Schools ("Schools") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* A copy of the Schools' response to your complaint is enclosed for your reference.

BACKGROUND

In your complaint, you allege that the Schools denied you access to records concerning the Schools' consideration of a policy that would implement school uniforms. In response to your complaint, Superintendent Michael J. Berta, Jr. states that the Schools provided you copies of all relevant documents via email on December 16, 2009.

ANALYSIS

The public policy of the 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." I.C. § 5-14-3-1. The Schools do not contest that they are 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 Schools' public records during regular business hours unless the records are excepted from disclosure as confidential or nondisclosable under the APRA. I.C. § 5-14-3-3(a).

The APRA does not prescribe a timeframe during which a public agency must produce public records. The public access counselor has stated repeatedly that records must be produced within a reasonable period of time, based on the relevant facts and circumstances. Considering factors such as the nature of the requests (whether they are broad or narrow), how old the records are, and whether the records must be reviewed and

edited to delete nondisclosable material is necessary to determine whether the agency has produced records within a reasonable timeframe. Section 7 of the APRA requires a public agency to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. §5-14-3-7(a). However, Section 7 does not operate to deny to any person the rights secured by Section 3 of the Access to Public Records Act. I.C. §5-14-3-7(c). The ultimate burden lies with the public agency to show the time period for producing documents is reasonable. *Opinion of the Public Access Counselor 02-FC-45.*

Because the complaint does not show when you made your initial request with the Schools, I do not have enough information to determine whether or not the Schools produced the records within a reasonable amount of time. However, you do note in your complaint that the Schools allegedly denied your request on December 9th. The fact that you received all responsive records on December 16th indicates to me that the Schools' produced the records within a reasonable period of time. Moreover, I trust that your receipt of all requested records resolves this dispute.

CONCLUSION

For the foregoing reasons, I do not have sufficient information to determine whether or not the Schools produced the records to you within a reasonable period of time. It is my opinion that the Schools have not otherwise violated the APRA.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Superintendent Michael J. Berta, Jr.