



STATE OF INDIANA

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February 21, 2011

Mr. Michael J. Shepard
1946 W. U.S. Hwy. 40
Greencastle, IN 46135

Re: Formal Complaint 11-FC-34; Alleged Violation of the Access to Public Records Act by the Clerk of the Indiana Supreme Court

Dear Mr. Shepard:

This advisory opinion is in response to your formal complaint alleging the Clerk of the Indiana Supreme Court (the "Clerk") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-3 *et seq.* The Clerk's response to your complaint is enclosed for your reference.

BACKGROUND

In your complaint, you allege that the Clerk violated the APRA by charging you a copy fee of \$1.00 per page for a copy of a guidebook for *pro se* litigants, a current docket sheet, and a Court of Appeals opinion. In response to your complaint, the Clerk states that the Supreme Court has authorized the Clerk to charge \$1.00 per page, plus postage, to mail citizens copies of public records, and that nothing in the APRA supersedes or precludes that order. Moreover, he argues that nothing in the order or the APRA requires him to prepare and mail copies of public records to a person who claims indigency.

ANALYSIS

The APRA permits a public agency to charge a fee for copies of public records. I.C. § 5-14-3-8. If a fee is "specified by statute or *ordered by a court*," the APRA states that "a public agency shall collect" such fee. I.C. § 5-14-3-8(f) (emphasis added). On April 26, 2010, the Supreme Court issued its Published Order Governing Fees Charged by Clerk of Courts for Miscellaneous Services, which is enclosed with the Clerk's response. In it, the Supreme Court authorized the Clerk to charge \$1.00 per page for copies of letter or legal sized documents. Thus, the Clerk did not violate the APRA by charging you such a fee.

I note that public agencies may require a person to pay a copying fee in advance. I.C. § 5-14-3-8(e). Nothing in the APRA requires that a public agency waive a copying fee, *Op. of the Public Access Counselor 07-FC-124*, or to mail records to you at its expense. *Op. of the Public Access Counselor 10-FC-59*.

CONCLUSION

For the foregoing reasons, it is my opinion that the Clerk did not violate the APRA.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack
Public Access Counselor

Cc: Kevin S. Smith