



STATE OF INDIANA

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July 18, 2012

Chad M. Farrell
1946 W. U.S. Highway 40
Greencastle, Indiana 46135

Re: Formal Complaint 12-FC-198; Alleged Violation of the Access to Public Records Act by the Indiana Department of Corrections

Dear Mr. Farrell:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Corrections ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Beckie Bennett responded on behalf of the Department. Her response is enclosed for your reference.

BACKGROUND

In your formal complaint, you allege that you requested certain sections of the contract between Aramark and the Department that deal with religious feasts. You further allege that the Native American Circle has asked for someone other than Aramark to handle your feast. You provide that Ms. Bennett has advised you that the Aramark contract provides the feasts pursuant to the Department's procedures and the Department has denied your request to have another entity handle the feast.

In response to your formal complaint, Ms. Bennett provided the portion of the Department's Operational Procedure covering the delivery of Religious Services as well as the section from the "Handbook of Religious Beliefs and Practices", both of which are available for your review in the Law Library. The Aramark contract is written in recognition of the policy and procedures of the Department.

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." See I.C. § 5-14-3-1. The Department is a public agency for the purposes of the APRA. See I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Department's public records during regular business hours unless the records are

excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 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* I.C. § 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* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and include information regarding how or when the agency intends to comply. It is not entirely clear from your formal complaint what records you are seeking and if/when they were requested. Ms. Bennett in response to your formal complaint has provided copies of the Department's Operational Procedure covering the delivery of Religious Services as well as the section from the "Handbook of Religious Beliefs and Practices" which are available to you in the Law Library. If you are actually requesting a copy of the Aramark contract, which is based upon the Department's policy, I would encourage you to submit a request in writing to the Department. To the extent you raise issues regarding the Department's preparation of religious feasts; such matters are outside the purview of this office.

CONCLUSION

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

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is stylized with a large initial "J" and a cursive "Hoage".

Joseph B. Hoage
Public Access Counselor

cc: Beckie Bennett