



STATE OF INDIANA

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August 5, 2013

Mr. William L. Cleavenger
P.O. Box 111
Culver, Indiana 46511

Re: Formal Complaint 13-FC-198; Alleged Violation of the Access to Public Records Act by the Culver Union Township Emergency Medical Services

Dear Mr. Cleavenger:

This advisory opinion is in response to your formal complaint alleging the Culver Union Township Emergency Medical Services ("Township") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Our office forwarded a copy of your formal complaint to the Township on July 9, 2013. The Township's response was due no later than August 1, 2013. As of today's date, we have yet to receive a response from the Township.

BACKGROUND

In your formal complaint you provide that you submitted a written request for records to the Township, via certified mail on June 12, 2013. The Township received your request on June 13, 2013. You sought the following:

1. "A two year month by month copy of actual shifts worked per months by individuals both volunteer member and "PRN" member.
2. A record of all individuals who attended EMS Certification training level courses sponsored and/or offered by your organization within the last three years. In addition, a list of those students that became affiliated with your organization and their current status with your organization as of June 1, 2013 or date of severance.
3. A quarterly roster list for the past two years of your membership, by status, i.e. volunteer etc. or Part-Time paid and their certification level."

You requested the information in order to assist two Town Council members with preparing the 2014 EMS Budget. As of July 9, 2013, the date you filed your formal complaint with the Public Access Counselor's Office, you allege that you have yet to receive any response from the Township.

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 Township 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 Township’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 twenty-four 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 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 information regarding how or when the agency intends to comply. Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. *See* I.C. § 5-14-3-9(c).

Without the benefit of a response from the Township to either your original request for records or your formal complaint, it is unclear why the Township failed to respond to your request or provide all records responsive to the request pursuant to the APRA. As such, it is my opinion that the Township violated section 9(c) of the APRA by failing to respond in any fashion to your written request for records.

CONCLUSION

Based on the foregoing reasons, it is my opinion that the Township violated section 9(c) of the APRA by failing to respond in any fashion to your written request for records.

Best regards,



Joseph B. Hoage
Public Access Counselor

cc: Robert Cooper