



# STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

January 21, 2014

Mr. Ken de la Bastide  
c/o The Herald Bulletin  
1133 Jackson St.  
Anderson, IN 46016

*Re: Formal Complaint 14-FC-06; Alleged Violation of the Access to Public Records Act by the Madison County Community Health Center*

Dear Mr. de la Bastide,

This advisory opinion is in response to your formal complaint alleging the Madison County Community Health Center ("Center") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Department has not responded despite an invitation to do so on January 10, 2014. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on January 10, 2014. Your complaint has been granted priority status.

## BACKGROUND

Your complaint dated January 22, 2014, alleges the Madison County Community Health Center violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On December 5, 2013 you request from the Center copies of the minutes of the Center's Board of Directors from January 1, 2011 through December 1, 2013. On December 12, 2013 the minutes were provided to you, however, they were heavily redacted. A response as why the minutes were redacted has not been provided to you at the time of your complaint.

## 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 Ind.

Code § 5-14-3-1. The Madison County Community Health Center is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Center's public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

A request for records may be oral or written. See Ind. Code § 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 Ind. Code § 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 Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

Clearly the Center has stipulated that the minutes are public records subject to disclosure. What is not clear, without the benefit of a response, is why the documents were so heavily redacted. You have provided me with a small sample and they do indeed appear to be redacted to the point of compromising the narrative of the minutes.

Because the Center is a public agency (they have not refuted this fact), the meetings held were presumably open to the public. Therefore any statutory exemption claimed by the Center would be viewed with scrutiny. If the meetings were open, then the public already has knowledge of the minutes' subject matter. There appears to be no reason to redact said records. Absent a response, I cannot find otherwise.

### **CONCLUSION**

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Madison County Community Health Center violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt  
Public Access Counselor