



STATE OF INDIANA

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July 17, 2014

John E. Seely
3330 Irvington Drive
Fort Wayne, IN 46805

Re: Formal Complaint 14-FC-128; Alleged Violation of the Access to Public Records Act by the Indiana University-Purdue University Fort Wayne

Dear Mr. Seely,

This advisory opinion is in response to your formal complaint alleging the Indiana University-Purdue University Fort Wayne ("IUPUFW") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* IUPUFW has not responded despite being invited to do so on June 24, 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 June 23, 2014.

BACKGROUND

Your complaint dated June 23, 2014, alleges the Indiana University-Purdue University Fort Wayne 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 June 11, 2014, you sent a public records request via certified mail to IUPUFW seeking any records referencing your name from November 30, 2013 and June 1, 2014. An individual from IUPUFW signed the certified return receipt yet you have not received any records or communication, a denial or otherwise, from the university.

DISCUSSION

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 Indiana University-Purdue University Fort Wayne 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 IUPUFW 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.

Due to IUPUFW's silence, your request is considered denied seven (7) days after the receipt of the certified mail which would be approximately June 11, 2014. If IUPUFW has determined the records fall into any exception from disclosure, they would be required to notify you in writing pursuant to Ind. Code § 5-14-3-9(d). They have not done so and therefore have acted contrary to the Access to Public Records Act.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Indiana University-Purdue University Fort Wayne has 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