



# STATE OF INDIANA

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September 19, 2014

Mr. Craig Fields  
1001 La Terraza Circle - Unit 203  
Corona, CA 92879

*Re: Formal Complaint 14-FC-206 (Expedited); Alleged Violation of the Access to Public Records Act by the Gary Public Library*

Dear Mr. Fields,

This advisory opinion is in response to your formal complaint alleging the Gary Public Library ("Library") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Library has responded to your complaint via Interim Director, Ms. Diana Morrow. Her response is enclosed for your review. 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 September 11, 2014.

## BACKGROUND

Your complaint dated September 10, 2014, alleges the Library violated the Access to Public Records Act by improperly denying you access to public records, specifically, a series of high school yearbooks kept in the Library's Indiana Room.

On September 3, 2014 and September 5, 2014, you submitted inquires via email to Mr. David Hess (Indiana Room Librarian) and Ms. Diana Morrow (Interm Director) requesting access to and the ability to copy a series of high school yearbooks maintained by the Library. As of the particular day of your complaint, you had not received access to information requested.

On September 17, 2014, The Library responded to your formal complaint by acknowledging the request for access to the yearbooks but disputing your complaint access had been denied. The Library claims your access to the materials has not been denied, but rather temporarily delayed because the facility housing the materials is under renovation and not accessible to the public. The Library also indicated the materials will be available beginning in the year 2015.

## ANALYSIS

The public policy of the APRA states that “a (p) roviding person 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 Gary Public Library 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 Library’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).

The justification cited for the delay of the materials you requested is alluded to the fact the facility which houses the documents is under construction. That particular justification alone is not enough to pass scrutiny. It is irrelevant the room in the library housing the documents is inaccessible to the public. The records therein should still be made available upon request. It would not seem unreasonable for a Library staffer to assist you in retrieving the documents. If it is inaccessible even to staffers, then my Opinion is the Library is not fulfilling their duty under the APRA to prevent the loss or destruction of public records as set forth in Ind. Code § 5-14-3-7.

The Library also claims the documents you seek are being processed in a restoration initiative. If this is the case, then it stands to reason the documents may indeed be temporarily inaccessible. The difference is in the document versus the housing.

Simply put, if the records are accessible to staffers then they should be made available to you -the construction project notwithstanding. If the actual documents are truly being restored, then their access can be temporarily delayed.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt  
Public Access Counselor

Cc: Ms. Diana Morrow