



STATE OF INDIANA

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November 21, 2016

Ms. Carol Albright
6602 Caroline Avenue
Indianapolis, Indiana 46220

Re: Formal Complaint 16-FC-267; Alleged Violation of the Access to Public Records Act by the Hamilton Southeastern Schools

Dear Ms. Albright:

This advisory opinion is in response to your formal complaint alleging the Hamilton Southeastern Schools ("HSE") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The HSE has responded on November 3, 2016 via Ms. Jessica Billingsley, Esq. Her response is included for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 12, 2016.

BACKGROUND

Your complaint dated October 12, 2016, alleges HSE has not responded to your records request in a reasonable time. Your initial records request was filed with your immediate supervisor on July 21, 2016. Your supervisor, consistent with the HSE procedure to directed the request to the Director of School & Community Relations. HSE acknowledged your request on July 27, 2016.

On September 9, 2016, you sent *via certified mail* a status update which included your former request as well additional record requests. This letter was acknowledged on September 19, 2016.

HSE responded stating your records requests were fulfilled on October 31, 2016, noting your requests sought a large amount of records which took time to collect and sort through. HSE states your request was submitted a few weeks before the school year started which is a particularly demanding time for school administrators.

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 Indiana Code § 5-14-3-1*. The Hamilton

Southeastern Schools is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)(1)*. Accordingly, any person has the right to inspect and copy the HSE's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

A request for records may be oral or written. *See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c)*. If the request is submitted and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. *See Indiana 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.

Indiana Code § 5-14-3-3(b), states a request for public records must be fulfilled by a public agency within a reasonable time. The APRA does not specify a time for production or inspection of responsive records. Often, this Office is asked to make a determination as to the reasonableness of the time for production by a public agency. What is a "reasonable" time period under one circumstance may not be reasonable under other conditions. Production need not materially interfere with the regular discharge of the functions and duties of the public agency. *See Indiana Code § 5-14-3-7(a)*.

Therefore, the determination of what is a reasonable time for production depends upon the public records requested and circumstances surrounding the request. Although reasonable time is not defined in the APRA or by the Courts, it is a standard which differs on a case-by-case basis. The timing of your initial request was during a busy time for school corporations and you requested a substantial amount of information. You sought eight (8) numbered requests with each request spanning three (3) years, HSE has been processing your large request in a reasonable timeframe.

The circumstances affecting the "reasonableness" of timely production of documents include: size of the public agency, number of pending requests, complexity of the request, and any other operational consideration which may reasonably affect the public records process. In this case, your formal complaint was dated nineteen (19) business days from the second request you sent in on September 12, 2016. Also HSE has fulfilled your records request on October 31, 2016.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor the Hamilton Southeastern Schools has not violated the Access to Public Records Act.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Ms. Jessica Billingsley, Esq.