
OPINION OF THE PUBLIC ACCESS COUNSELOR

REBECCA K. CRUMES,
Complainant,

v.

CITY OF ANDERSON,
Respondent.

Formal Complaint No.
19-FC-131

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the City of Anderson violated the Access to Public Records Act.¹ City attorney Timothy S. Lanane filed an answer on behalf of the city. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on November 26, 2019.

¹ Ind. Code §§ 5-14-3-1 to -10

BACKGROUND

On October 15, 2019, Rebecca K. Crumes (“Complainant”), president of the Anderson City Council, filed a public records request with the city’s public information officer seeking the personnel files for two employees.

The city acknowledged Crumes’s request the same day. The city’s response included the statutory language of Indiana Code section 5-14-3-4(b)(8), which governs what information is disclosable from a public employee’s personnel file under the Access to Public Records Act. The city also asked Crumes to allow additional time for the city to inspect and provide the information.

After not receiving the requested records, Crumes filed a formal complaint with this office on November 26, 2019, alleging a violation of the Access to Public Records Act (“APRA”). In essence, Crumes argues that the city did not provide the requested records within a reasonable time under APRA.

On December 18, 2019, Anderson filed an answer to Crumes’s complaint with this office. Although the city notes its initial response to the request, it concedes that there was confusion about who was handling the processing of the request. As a result, the city did not follow up.

The city also indicated its willingness to comply with the request to the extent required under APRA, and apologized for the delay.

ANALYSIS

1. The Access to Public Records Act (“APRA”)

It is the public policy of the State of Indiana that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Ind. Code § 5-14-3-1. Further, 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.” *Id.*

The City of Anderson is a public agency for the purposes of APRA; and thus, is subject to the act’s requirements. Ind. Code § 5-14-3-2(q). Unless otherwise provided by statute, any person may inspect and copy the County’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

2. Reasonable Time

The crux of Crumes’s complaint is that the City of Anderson took too long to provide the personnel records she requested in October.

Indeed, APRA requires an agency to provide disclosable public records within a reasonable time after the agency receives the request. *See* Ind. Code § 5-14-3-3(b). The term “reasonable time” is not defined under APRA. That means there is no concrete timeframe in place for a public agency to provide the requested records.

This office evaluates on a case-by-case basis the issue of reasonable time, which includes the following factors: (1) the

size of the agency; (2) the size of the request; (3) the number of pending requests before the agency; (4) the complexity of the request; and (5) any other reasonable considerations that may impact the request process.

Here, Crumes requested personnel records for two employees from the city on October 15, 2019. She had not received anything from the city at the time she filed the complaint on November 26, 2019.

APRA only mandates release of specific, limited information in an employee's personnel file. *See* Ind. Code § 5-14-3-4(b)(8)(A), to -(C). Otherwise, an agency has discretion to withhold an employee's personnel file from public disclosure.

Based on the type of records requested and the amount of time that elapsed between the request and complaint, Crumes has a solid argument that the city did not provide the records within a reasonable time.

Even so, the city acknowledged confusion about who was responsible for processing the request, which contributed to the delay. The city also pledged to provide the records to Crumes by December 20, 2019. The city also apologized for delay and lack of follow-up with Crumes, which is rare in these types of disputes.

Thus, there is no need for this office to run up the score.

So long as the city followed up and provided the records, the City is compliant, albeit in a delayed manner, with the Access to Public Records Act.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the City of Anderson did not violate the Access to Public Records Act so long as the records requested have been provided at the time of the publication of this writing.

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

Luke H. Britt
Public Access Counselor