



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
HEATHER NEAL

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

October 21, 2008

Richard E. Volbrecht, Jr.
9221 Parkway Drive
Highland, Indiana 46322

Re: Formal Complaint 08-FC-213; Alleged Violation of the Access to Public Records Act by the School City of East Chicago

Dear Mr. Volbrecht:

This advisory opinion is in response to your formal complaint alleging the School City of East Chicago ("School") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by failing to respond to your request for records. It is my opinion the School violated the APRA if the School received your request and did not respond to it within seven days.

BACKGROUND

You filed a complaint on September 30, 2008, alleging that on September 22 at 12:05am you submitted a request to the School for copies of a number of records; you allege you submitted the request by facsimile and by electronic mail submission to Frank Ramirez. You enclosed a copy of the request with the complaint. You allege that the School failed to respond to the request.

My office sent a copy of the complaint to the School and invited the School to respond to the complaint. To date my office has not received a response from the School.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The School is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the School during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 5-14-3-3(a), 5-14-3-9(c). If the request is delivered by mail (or electronic mail) or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

If the School did receive your request for access to records maintained by the agency, the agency would have a duty under the APRA to respond within seven days of receipt. I.C. § 5-14-3-9(b). I do not have the benefit of a response from the School indicating whether the School received your request, but based on the information you provided, the School should have received both copies of the request at the start of regular business hours on September 22. If the School received the request and did not respond to the request within seven days of receipt (by September 29), the School violated the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion the School violated the APRA if the office received your request and did not respond to the request within seven days.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Frank Ramirez, School City of East Chicago