



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
HEATHER NEAL

Indiana Government School South
402 West Washington Street, Room W460
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

January 19, 2009

Thomas Purpus
1042 Silver Court
Anderson, Indiana 46012

Re: Formal Complaint 09-FC-11; Alleged Violation of the Access to Public Records Act by the Anderson Community School Corporation

Dear Mr. Purpus:

This advisory opinion is in response to your formal complaint alleging the Anderson Community School Corporation ("School") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. A copy of the School's response to the complaint is enclosed. In my opinion the School's response to the request was untimely, but the School did not otherwise violate the APRA.

BACKGROUND

You filed the present complaint on December 19, 2008. You allege that you submitted to the School on December 4 a request for copies of records. You further allege you telephoned the School on December 15 and learned the School received your request on December 5 or 6. You allege you have received no response to the request.

The School responded to the complaint by letter dated January 6, 2009 from attorney Charles Rubright. The School contends that Mr. Rubright responded to the request by letter dated December 15. Further, the School sent copies of the requested records to you on December 19.

You further corresponded with my office by letter dated January 8, wherein you address Mr. Rubright's response to the complaint. You indicate you received the School's initial response on December 17 and the requested copies on December 22. You contend that the complaint was predicated only on the allegation that the School did not respond to the request within seven days.

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 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 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).

Here, it appears the School received the request on or about December 5 or 6. The initial response from the School was mailed December 15, which is outside the seven day response period provided in the APRA. As such, the School's response was untimely under the APRA.

The School sent you copies of all records responsive to your request on December 19, and you indicate you received those copies on December 22. You indicate you have no further questions or requests regarding those records. As such, the School has fulfilled its obligation for providing access to records provided in the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion the School's response to the request was untimely, but the School did not otherwise violate the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Charles Rubright, Bose McKinney & Evans LLP