



STATE OF INDIANA

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July 13, 2009

David Crisler
6948 Governors Point Drive
Indianapolis, Indiana 46217

Re: Formal Complaint 09-FC-147; Alleged Violation of the Access to Public Records Act by RISE Learning Center

Dear Mr. Crisler:

This advisory opinion is in response to your formal complaint alleging Metropolitan School District of Perry Township, through RISE Learning Center ("RISE"), violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. A copy of RISE's response to the complaint is enclosed for your reference. In my opinion RISE has not violated the APRA.

BACKGROUND

You filed the present complaint on June 23, 2009. You allege that on May 7 you requested a copy of meeting notes for the latest Stakeholders Meeting and that to date RISE has not provided you access to those notes.

RISE responded to the complaint by letter dated July 9 from attorney David Day. Mr. Day explains that RISE is operated by RISE Special Services, a joint service and supply entity formed by the Metropolitan School District of Perry Township, Franklin Township Community School Corporation, the Metropolitan School District of Decatur Township, and Beech Grove City Schools to provide special education services to students residing in those districts. RISE indicates that the complaint centers on notes of meetings held by the RISE Stakeholders Group, an ad hoc group created in 2008 to serve as a means of information sharing. Members include RISE administrators, administrators from the school districts that comprise RISE, parents, teachers and community members.

RISE contends the Group does not have a set schedule and generally meets four to five times per year. The Group exercises no statutory or regulatory authority. RISE contends that while the meetings are recorded, it is not required by law to create minutes of the meetings. Notwithstanding that, a RISE staff member has in the past created notes of meetings as a courtesy to members of the Group and the public. RISE contends that it

is not required to create such notes and as such has not violated the APRA by declining to do so now.

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. RISE 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 RISE 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).

Here, you have requested access to a copy of meeting notes for the most recent meeting of the Stakeholders Group. RISE contends it is not required by statute or regulation to create minutes of the meetings of this ad hoc group and as such notes related to the most recent meeting have not been created. I agree. Even though RISE has created notes in the past, I find nothing in statute that would require this type of ad hoc group to keep minutes of its meetings. Further, nothing in the APRA requires a public agency to *develop* records or information pursuant to a request. The APRA requires the public agency to *provide access* to records already created. If RISE does not maintain the record you have requested, it is not required to create a record to satisfy your request.

CONCLUSION

For the foregoing reasons, it is my opinion RISE has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: David Day, Church, Church, Hittle & Antrim
Dr. Thomas Little