



STATE OF INDIANA

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August 19, 2009

Kelly Soderlund
600 West Main Street
Fort Wayne, Indiana 46802

Re: Formal Complaint 09-FC-166; Alleged Violation of the Access to Public Records Act by Ivy Tech Community College of Indiana

Dear Ms. Soderlund:

This advisory opinion is in response to your formal complaint alleging Ivy Tech Community College of Indiana ("Ivy Tech") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to video surveillance records. A copy of Ivy Tech's response to the complaint is enclosed for your reference. It is my opinion Ivy Tech did not violate the APRA by denying you access to video surveillance records.

BACKGROUND

You indicate that you submitted to Ivy Tech a request for access to video surveillance tapes maintained by Ivy Tech. You do not provide a narrative indicating what your specific complaint is, but you attach a copy of correspondence from Ivy Tech. I assume you contend Ivy Tech's denial of access was inappropriate under the APRA. You filed the present complaint on July 22, 2009.

Ivy Tech responded to the complaint by letter dated August 7 from Assistant General Counsel James Clark. Ivy Tech contends the video tapes are excepted from disclosure pursuant to I.C. § 5-14-3-4(b)(18) because the video recordings are part of the safety and security measures, plans and systems of the school and pursuant to I.C. § 5-14-3-4(b)(8) because the records are now maintained as personnel file records.

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. Ivy Tech 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 Ivy

Tech 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).

The APRA provides a number of categories of records which may be withheld from disclosure at the agency's discretion. A listing of such records may be found in I.C. § 5-14-3-4(b). One group of records which may be disclosed at the discretion of the agency is the following:

School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.
I.C. § 5-14-3-4(b)(18).

While the APRA does not define "school," Ivy Tech contends that because it is a publicly funded school and because colleges and universities are not specifically excepted from the exception, Ivy Tech is a school for the purposes of I.C. § 5-14-3-4(b)(18). I would agree. Ivy Tech explains that like primary and secondary educational institutions, colleges are required to provide a reasonably safe environment for students. Ivy Tech contends that the safety and security of students could be compromised if it were required to provide access to surveillance records. Ivy Tech contends that by viewing the video records, one could determine the locations of surveillance cameras and the areas covered by surveillance. This could compromise the effectiveness of the security system.

I agree with Ivy Tech's contention that allowing access to the recordings could reveal the locations of surveillance cameras, which could compromise the safety and security system. This office has previously addressed similar issues related to denial of access to video surveillance on the basis such disclosure could compromise a security system. *See Opinions of the Public Access Counselor 03-FC-126 and 08-FC-44.*

Ivy Tech has provided an explanation as to how the release of the information you have requested could compromise the safety and security systems developed by Ivy Tech. In my opinion, the Ivy Tech's explanation is sufficient to demonstrate the records at issue fall within the exception to disclosure found in I.C. § 5-14-3-4(b)(18).

Ivy Tech further contends that even if the records were not nondisclosable on the basis of I.C. § 5-14-3-4(b)(18), the records now constitute personnel files and as such are excepted from disclosure pursuant to I.C. § 5-14-3-4(b)(8). This point is rendered moot by my opinion that the video recordings are excepted from disclosure on the basis of I.C. § 5-14-3-4(b)(18). But I would note that if, in accordance with an approved retention schedule the records are retained only as personnel records, those records would indeed be nondisclosable at the discretion of the agency on the basis of the personnel records exception found at I.C. § 5-14-3-4(b)(8).

CONCLUSION

For the foregoing reasons, it is my opinion Ivy Tech did not violate the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: James G. Clark, Ivy Tech Community College of Indiana