



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
HEATHER NEAL

Indiana Government Center 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

March 2, 2009

Scot Ford
17 Hillside Court
Whiteland, Indiana 46184

Re: Formal Complaint 09-FC-35; Alleged Violation of the Access to Public Records Act by the Clark-Pleasant Community School Corporation

Dear Mr. Ford:

This advisory opinion is in response to your formal complaint alleging the Clark-Pleasant Community School Corporation ("School") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by failing to respond to your request for access to records. It is my opinion the School violated the APRA by failing to respond to the request within twenty-four hours.

BACKGROUND

You allege that on January 23, 2009 you hand delivered to the School a request for a copy of the superintendent's contract. You allege you did not receive a response to the request within twenty-four hours of the time of your request. You filed the present complaint on January 30. You later received a copy of the contract from the School. You sent an electronic mail message to my office on February 3, inquiring how you could determine whether the one-page document you received is the entirety of the contract.

The School responded to the complaint by a brief, undated letter from Superintendent J. T. Coopman. My office received the letter on February 13. Dr. Coopman contends the school has complied with all of your requests and has done so according to statutory guidelines.

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 in person and the agency does not respond to the request within twenty-four hours of receipt, the request is deemed denied. I.C. § 5-14-3-9(a).

A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency. A public agency is required to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. § 5-14-3-7(a). However, section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. I.C. § 5-14-3-7(c). Former public access counselors and I have opined that records must be produced within a reasonable period of time, based on the facts and circumstances.

Here, you allege you delivered the request on January 23. You do not indicate when you received a copy of the contract, but you had not received a response or the copy of the contract by the date you filed the complaint, January 30. The School had the duty to respond to the request within twenty-four hours of receipt, or by the same time the next business day. I.C. § 5-14-3-9(a). By failing to do so, the School violated the APRA. If the School has now provided you the records you requested, the School has not otherwise violated the APRA.

You also inquire how you can determine whether the record you received is the entirety of the record you requested. The School has a duty to provide access to the entirety of the record you requested unless an exception to disclosure applies. See I.C. § 5-14-3-3(a). If the School is withholding other portions of the record, it has a duty to indicate to you it is denying access to those portions of the record.

CONCLUSION

For the foregoing reasons, it is my opinion the School violated the APRA by failing to respond to the request within twenty-four hours.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: J. T. Coopman, Superintendent, Clark-Pleasant Community School Corporation