



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
ANDREW J. KOSSACK

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

March 14, 2011

Ms. Rebecca S. Green
The Journal Gazette
600 W. Main St.
Ft. Wayne, IN 46802

Re: Formal Complaint 11-FC-49; Alleged Violation of the Access to Public Records Act by Imagine Schools, Inc.

Dear Ms. Green:

This advisory opinion is in response to your formal complaint alleging Imagine Schools, Inc. ("Schools") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The Schools' response to your complaint is enclosed for your reference.

BACKGROUND

In your complaint, you allege that the Schools denied your request for the amount of a legal settlement agreed upon between the Schools and a plaintiff in December of last year. You submitted your request on February 4th and received a denial from the Schools that same day. In the Schools' denial, Jason Bryant stated that the Schools are a private entity not subject to the APRA. After you filed your complaint, Mr. Bryant sent our office notification on February 21st stating that he provided you with the information you requested.

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. Here, the Schools initially denied your request based on Mr. Bryant's belief that the Schools are not a public agency subject to the APRA. I note, however, that the Schools have previously responded to APRA complaints without challenging their status as a public agency subject to the APRA and ODL. *See Op. of the Public Access Counselor 09-FC-268.* As stated in previous opinions from this office regarding the

Schools, which are charter schools established pursuant to I.C. § 20-24-1-1 *et seq.* Under Indiana law, a charter school is a public school. I.C. § 20-24-4-1(4). Among other requirements, a charter school's charter must specify that records of the charter school are subject to inspection and copying to the same extent that records of a public school are subject to inspection and copying under the APRA and that meetings of the school's governing body are subject to the requirements of the ODL. I.C. § 20-24-4-1(13), (15). Consequently, the Schools constitute a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Schools' public records 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). Thus, the Schools' initial response, which denied your request on the basis that the Schools are not a public agency, was unfounded. That said, it appears that the Schools ultimately created a document that provides information responsive to your inquiry, which I trust satisfies your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that because the Schools are a public agency subject to the APRA, the Schools should have responded to your request in accordance with the APRA. The School has not otherwise violated the APRA if it has now fulfilled your request.

Best regards,



Andrew J. Kossack
Public Access Counselor

cc: Jason Bryant