



STATE OF INDIANA

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February 3, 2015

Mr. John Edward Seely
3330 Irvington Drive
Fort Wayne, IN 46805

Re: Formal Complaint 15-FC-03; Alleged Violation of the Access to Public Records Act by Indiana University-Purdue University Fort Wayne

Dear Mr. Seely,

This advisory opinion is in response to your formal complaint alleging the Indiana University-Purdue University Fort Wayne ("IPFW"), violated the Access to Public Records Act ("APRA") Ind. Code § 5-14-3-1 *et. seq.* IPFW has responded via Ms. Christine M. Marcuccilli. Her response is attached for your review. I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on January 5, 2015.

BACKGROUND

Your complaint filed on January 5, 2015 alleges Indiana University-Purdue University Fort Wayne violated the Access to Public Records Act by failing to produce information you requested.

On or about December 16, 2014, you served upon IPFW a public records request for information related to you under Ind. Code § 5-14-3-5. A mailroom staffer at IPFW signed for the request; however, you have not received a reply concerning the request.

IPFW responded to your formal complaint by explaining there was confusion as to exactly what you were looking for upon review of your request. Your request ended up in the registrar's office and your student transcript was mailed to you. When you filed your complaint with this Office, we placed IPFW on notice you had a grievance with them. At that time, they commenced a search for your initial request and produced what they considered to be documentation responsive to your request. Also at issue is whether you availed yourself of IPFW's established public records request form which is available for use.

DISCUSSION

The public policy of the APRA states that “(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.” See Ind. Code § 5-14-3-1. The Indiana University-Purdue University Fort Wayne is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy IPFW’s public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

Your request seeks “copies of all Indiana University-Purdue University Fort Wayne public records described by I.C. 5-14-3-5, referring in whole, or in part, to John Seely between November 12th, 2014 and December 15th, 2014.” Your request does not appear to have met the specificity requirements of Ind. Code § 5-14-3-3(a)(1). It is not reasonably particular because it does not identify a record or type of record. Ind. Code § 5-14-3-5 encompasses a broad swath of records sets. Therefore, it stands to reason IPFW was not made aware of exactly what record or records you were seeking.

Furthermore, this Office has held several times in the past a public agency may use a prescribed form for the convenience of the public and for internal efficiency efforts. This is authorized under Ind. Code § 5-14-3-3(a)(2). Much of the confusion surrounding this controversy (as well as a non-responsive production of records) was due to the way in which you submitted your request. It could have been prevented had you availed yourself of that simple process. IPFW has a prescribed form conspicuously available on their website. I undertook an investigation into the matter and was able to find the form in a matter of minutes at <http://www.ipfw.edu/offices/equity/public-records-request/>. The University has a dedicated web page for such requests.

This also calls into question my conclusion in *Advisory Opinion 14-FC-128* wherein I found a violation on the part of IPFW for not responding to your request within seven days. However, because they did not respond to this Office’s solicitation for a response with regard to *14-FC-128*, I decline to amend the finding.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that Indiana University-Purdue University Fort Wayne did not violate the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long, sweeping underline that extends to the left.

Luke H. Britt
Public Access Counselor

Cc: Ms. Christine M. Marcuccilli, Esq.